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WRITER'S DIRECT NUMBER: (317) 236-2208
DIRECT FAX: (317) 592-4676
INTERNET: KAY.PASHOS@ICEMILLER.COM

Via E-mail to bheline@urc.IN.gov and URCComments@urc.in.gov

Ms. Beth E. Heline, General Counsel
Indiana Utility Regulatory Commission
101 W. Washington St. Ste. 1500 East
Indianapolis, IN 46204-3407

Re: Comments regarding Securitization Strawman Rule, RM #12-02

Dear Ms. Heline:

Thank you for the opportunity to provide input into the development of the Commission's securitization rule. I am submitting the collective comments of the following utilities: Duke Energy Indiana, Indiana Michigan Power Co., Indianapolis Power & Light Co. (AES), and Northern Indiana Public Service Co. Southern Indiana Gas & Electric Co. (CenterPoint) is filing its own comments.

Attached to this letter are our suggestions, redlined to show changes made to the strawman rule. Our proposed changes are explained below.

Section 1

We suggest that the intent of the rule be described per our attached redlines, to show consistency with IC ch. 8-1-40.5, which is limited to electric utility generating assets that will be retired in the near future.

Section 5

Because the market-based securitization terms may not be finalized at the outset of a securitization case, we recommend that the rule refer to "best estimates" where appropriate, as shown on the attached.

With regard to the required elements of a case-in-chief, we have five recommendations. First, in subsection (9), we recommend deleting the requirement that any new capital investments be justified if they are not investments in clean energy resources. IC ch. 8-1-40.5 directs the Commission to encourage investments in clean energy resources, but does not require such. We believe this language goes beyond encouragement, seeming to imply that 100% of the re-investment should be directed to clean energy resources. As a result, the requirement does not recognize that as a practical matter, the securitized assets will likely be "replaced" with a combination of clean energy resources and investments in other types of assets that will benefit customers.

Second, we recommend that subsection (10) be revised as shown on the attached, to avoid any inadvertent technical violations of the rule, while at the same time providing that major calculations presented in a utility's case-in-chief will be adequately supported. Importantly, the discovery process can be used to supplement case-in-chief documentation should any party believe it does not have adequate documentation to analyze the utility's filing.

Third, in subsection (11), we recommend that estimated redemption premiums be included in the utility's case-in-chief, as such premiums will be part of the cost of redeeming any outstanding debt.

Fourth, in subsection (12), we recommend that the phrase "to the extent available" be added to this requirement, to recognize that at the time of filing its case-in-chief, the utility may not have contracts, agreements, etc. for the sale of securitization bonds.

Fifth, we recommend that the case-in-chief requirements include the utility's proposed issuance advice letter for the securitization bonds, if the utility plans to use one.

Section 6

We have two comments on this section: first, we believe the advance notice of intent to file a securitization petition should be 30 days, not 60 days, which synchs up with a rate case process and ex parte rules. Second, we believe a requirement to provide this notice to parties that the utility thinks are likely to intervene is too vague. We propose that required notice be limited to the OUCC. We believe this is reasonable given the numerous notice requirements contained in Section 7.

Section 7

We recommend that the utility be given 30 days to publish notice; two weeks is not feasible or realistic, especially when dealing with small town or county newspapers. We also recommend making clear that certain of the notice requirements are estimates, and we suggest adding a requirement that the utility also notify customers of the estimated customer savings over the term of the securitization.

Thank you for seeking and considering our input.

Sincerely,

ICE MILLER LLP



Kay E. Pashos

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Rule 4-10. Cost Securitization for Retired Electric Utility Assets

SECTION 1. 170 IAC 4-10 IS ADDED AS FOLLOWS:

170 IAC 4-10-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 1. This rule is intended to establish procedures and guidelines for cost securitization for ~~retired~~ electric utility generating assets that will be retired from service by an electric utility not later than twenty-four (24) months after the filing of a petition by the electric utility under IC 8-1-40.5.
(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)

170 IAC 4-10-2 Applicability under IC 8-1-40.5

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 2. This rule applies to any electric utility, as defined under IC 8-1-40.5-3, that meets the threshold for qualified costs pursuant to IC 8-1-40.5-10(a). *(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)*

170 IAC 4-10-3 No change to other commission processes

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 3. This rule does not replace other commission requirements, including, but not limited to:
(1) a proceeding requesting a certificate of public convenience and necessity; and
(2) the commission's rule 170 IAC 4-7 regarding integrated resource planning.
(Indiana Utility Regulatory Commission; 170 IAC 4-10-1)

170 IAC 4-10-4 Definitions

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 4. (a) The definitions in IC 8-1-40.5 and this section apply throughout this rule:
(b) "Case-in-chief" means the evidence and documentation provided by the utility in support of its petition, including, but not limited to, those listed in subsection 5(c) below at a minimum.
(c) "Commission" means the Indiana utility regulatory commission.
(d) "OUCC" means the Indiana office of utility consumer counselor established under IC 8-1-1.1.

(e) “Removal costs” mean those costs:

- (1) incurred or expected to be incurred to physically remove retired utility facilities; and
- (2) that have not already been recovered from customers.

(f) “Restoration costs” mean those costs incurred or expected to be incurred to restore the site of retired utility facilities to a state found to be just and reasonable by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-2)

170 IAC 4-10-5 Petition and case-in-chief

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 5. (a) An electric utility seeking to securitize costs for retired electric utility assets shall file its petition and its case-in-chief on the same day. The 240-day timeline in IC 8-1-40.5-10(b) does not start until the case-in-chief is filed.

(b) The electric utility’s petition shall contain, at a minimum, the following:

- (1) The best estimate of the amount and terms of the proposed securitization.
- (2) The best estimate of the proposed term in years of the securitization bonds.
- (3) The best estimate of total jurisdictional rate base at time synchronized with the best estimate of qualified costs at time of bond issuance.
- (4) An executive summary of the request.

(c) The electric utility’s case-in-chief shall contain, at a minimum, the following:

- (1) Descriptions and schedules of the qualified costs to be subject to the securitization, including linking or mapping the qualified costs to the costs currently included in utility rates, as applicable.
- (2) Schedule(s) and supporting assumptions and documentation comparing the net present value of the proposed securitization charges with the net present value of the recovery of the qualified costs through traditional ratemaking.
- (3) Identification and list of electric utility assets to be retired for which securitization is being requested.
- (4) Proposed process to accomplish the requirements of IC 8-1-40.5-12(c), including a demonstration that securitization charges will be sufficient to timely provide all payments on debt service and other required amounts and charges in connection with the securitization bonds.
- (5) Identification and description regarding the use of the securitization bonds proceeds and accounting entries at receipt of bond proceeds.
- (6) Identification and description of the proposed mechanism to reduce the electric utility’s base rates and charges upon assessment of the securitization charges on customer bills, so as to remove any qualified costs from the electric utility’s base rates and provide timely savings to customers.
- (7) Tariffs and supporting documentation for securitization charges and proposal for removing qualified costs from existing rates, as applicable.
- (8) Identification and description of current and anticipated market conditions and expected bond structure.

(9) Proposed plan for capital investment in Indiana, ~~with justification of any plan investment that is not identified as a clean energy resource.~~

(10) Basis and supporting documentation for ~~any and all~~ estimated numbers reasonably anticipated by the utility to be necessary to analyze the case-in-chief.

(11) A description of any debt or equity securities to be refinanced or retired and estimated redemption premiums, if any, including previously issued securitization bonds.

(12) A copy of any contract, agreement, or arrangement that is proposed or has been made, or examples of, for the sale of the securitization bonds proposed to be issued, to the extent available.

(13) Demonstration of the proposed process to be used to correct any over collections or under collections of securitization charges.

(14) Proposed financing order.

(15) Proposed issuance advice letter for securitization bonds, if the utility plans to use such a letter.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-3)

170 IAC 4-10-6 Notice to OUCC and likely intervenors

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 6. The electric utility shall provide notice of its intent to file its petition at least 30 ~~60~~ days prior to filing its petition to:

~~(1) the OUCC; and~~

~~(2) any person or entity the electric utility thinks may be likely to intervene in the securitization proceeding.~~

(Indiana Utility Regulatory Commission; 170 IAC 4-10-4)

170 IAC 4-10-7 Notice to customers

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 7. (a) Within 30 days ~~two weeks~~ of the filing of its petition, the electric utility shall provide notice to its customers by:

(1) posting notice on the electric utility’s website; and

(2) publishing notice through an advertisement in a newspaper of general circulation in each county served by the electric utility.

(b) The notice shall state:

(1) That the electric utility has filed with the commission a petition for securitization financing

order and authority for a finance subsidiary to issue securitization bonds;

(2) The estimated total amount of the securitization bonds requested;

(3) The proposed securitization charges and the number of years it will be collected;

(4) The estimated net impact on customer rates, as well as the estimated savings to customers over the term of the securitization;

(4) That interested persons may send comments to the OUCC; and

(5) The mailing and website addresses for the OUCC and the commission.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-5)

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